

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT.

[Given pursuant to section 4 of the Food and Drugs Act.]

3301. Adulteration of oysters. U. S. v. Edward Bennett. Plea of nolo contendere. Sentence suspended. (F. & D. No. 4493. I. S. No. 20318-d.)

At a stated term of the District Court of the United States for the Eastern District of New York, the grand jurors of the United States within and for the district aforesaid, acting upon a report by the Secretary of Agriculture, returned an indictment against Edward Bennett, Brooklyn, N. Y., charging shipment by said defendant, in violation of the Food and Drugs Act, on April 17, 1912, from the State of New York into the State of Pennsylvania, of a quantity of oysters which were adulterated.

Examination of a sample of the product by the Bureau of Chemistry of this department showed the following results: Five out of 5 oysters showed the presence of gas-producing organisms in bile fermentation tubes after 3 days' incubation at 37° C. in 1 cc quantities; 5 out of 5 oysters in 0.1 cc quantities; 4 out of 5 oysters in 0.01 cc quantities; 0 out of 5 oysters in 0.001 cc quantities; 100 streptococci per cc isolated from 1 oyster; 10 streptococci per cc isolated from each of 3 oysters; 1 streptococcus per cc isolated from 1 oyster; score, 410 points.

Adulteration of the product was charged in the indictment for the reason that it consisted in part of filthy, decomposed, and putrid animal substance.

On January 12, 1914, the defendant entered a plea of nolo contendere to the indictment, and the court suspended sentence.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., May 26, 1914.

3302. Adulteration of oysters. U. S. v. Warren Cornell. Plea of nolo contendere. Sentence suspended. (F. & D. No. 4504. I. S. No. 20716-d.)

At the November, 1912, term of the District Court of the United States for the Eastern District of New York, the grand jurors of the United States of America within and for the district aforesaid, acting upon a report by the Secretary of Agriculture, returned an indictment against Warren Cornell, late of the county of Queens, State and Eastern District of New York, alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about April 17, 1912, from the State of New York into the State of Pennsylvania, of a quantity of oysters which were adulterated.

Bacteriological examination of a sample of the product by the Bureau of Chemistry of this department showed the following results: Five out of 5 oysters showed the presence of gas-producing organisms in bile fermentation tubes after 4 days' incubation at 37° C., in 1 cc quantities; 5 in 0.1 cc quantities; 3 in 0.01 cc quantities; 0 in 0.001 cc quantities; score, 320 points; 1 streptococcus per cc isolated from each of 2 oysters; 10 streptococci per cc isolated from each of 3 oysters; 10 *B. coli* group per cc isolated from each of 2 oysters; 100 *B. coli* group per cc isolated from each of 3 oysters.

Adulteration of the product was alleged in the information for the reason that it consisted in part of filthy, decomposed, and putrid animal substance.

On January 19, 1914, the defendant entered a plea of *nolo contendere* to the information, and the court suspended sentence.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., May 26, 1914.

3303. Adulteration and misbranding of Scuppernong wine. U. S. v. 4 Cases of Scuppernong Wine. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 4509. S. No. 1503.)

On September 12, 1912, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 4 cases, each containing 1 dozen bottles of Scuppernong wine, remaining unsold in the original unbroken packages and in possession of O. B. Cook & Co., Detroit, Mich., alleging that the product had been shipped on August 17, 1912, by the A. Schmidt Jr. & Bros. Wine Co., Sandusky, Ohio, and transported from the State of Ohio into the State of Michigan, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled "Ohio Golden Eagle Scuppernong Wine. The A. Schmidt Jr. and Bros. Wine Co. Sandusky, Ohio."

It was alleged in the libel that the product was misbranded in violation of paragraph 1 of section 8 of the Food and Drugs Act and also in violation of paragraphs 1, 2, and 4 of section 8, under the classification of "Food," in said act. It was also alleged that the product was adulterated in violation of section 7 of said act and of paragraphs 1 and 2 under "Food" in said act, an examination of the samples of said product by the Bureau of Chemistry of the Department of Agriculture having revealed that said product was imitation Scuppernong wine, consisting of a mixture of pomace wine and other wines, and very little if any Scuppernong wine, which had been substituted for Scuppernong wine, thus reducing and injuriously affecting the quality and strength of the article. It was further alleged that the product was liable to condemnation and confiscable under the terms and provisions of the Food and Drugs Act, for the reason that the cases of wine and each of them by the label contained on the retail containers thereof were labeled and printed so as to deceive and mislead the purchasers thereof, and said product was adulterated in that a substitution had been mixed and packed with it so as to reduce and injuriously affect its quality and strength, and in that a substance had been substituted in part for the article, an analysis of the product disclosing the fact that said product was an imitation of Scuppernong wine prepared wholly or in part from pomace wine and other wines and very little if any Scuppernong wine.

On October 6, 1913, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., May 26, 1914.

3304. Adulteration of oysters. U. S. v. The H. W. Schmeelk Oyster Co. Plea of *nolo contendere*. Sentence suspended. (F. & D. No. 4529. I. S. No. 20317-d.)

On November 7, 1912, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the H. W. Schmeelk Oyster Co., a corporation, Brooklyn, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on April 17,